IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3507 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORPN

Versus

SAMIR I DANI

Appearance:

MR KIRIT I PATEL for Appellant

MR KV SHELAT for Respondent

CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE J.R.VORA

Date of decision: 20/02/2001

ORAL JUDGEMENT (Per : MR.JUSTICE M.R.CALLA)

1. This Appeal was admitted by a common order separately passed along with other cognate matters. This First Appeal u/s 411 of the Bombay Provincial Municipal Corporation Act, 1949, is directed against the order dated 10th January, 2000, passed by the Judge, Small Causes Court, Court No.10, Ahmedabad, in Municipal Valuation Appeal No. 1085 of 1997 for the year 1996-97 in respect of Survey No. 259/1+2+2/A+B 705 situated in Ward Ellisbridge A-1 in Ahmedabad.

2. The Gross Rateable Value with regard to the aforesaid premises was fixed by the Municipal Corporation at Rs. 20,312.00 for the year 1996-97 and against the fixing of this GRV, the Assessee preferred the Municipal Valuation Appeal before the Small Causes Court. The Assessee had produced the documentary evidence by Exh.7 and from Mark 7/1 a copy of the sale deed was produced and from Mark 7/2 the receipt of payment of taxes was also produced. There is no dispute between the parties that the sale deed which was produced as evidence in the previous Municipal Valuation Appeal before the Small Causes Court was taken into evidence in the present Appeal and no objection whatsoever was raised by the Municipal Corporation.

3. The respondent Corporation did not produce any evidence and no application whatsoever was moved even for appointment of expert valuer u/s 409 of the Bombay Provincial Municipal Corporation Act and the Corporation rest contented without leading any evidence whatsoever. The Small Causes Court therefore decided the Appeal on the basis of the documentary evidence as was produced and taken into evidence without any objections by the Municipal Corporation. As per the documentary evidence, the premises in question had been purchased for a sum of Rs. 82,600/- and Gross Rateable Value was also fixed on that basis in respect of the premises in question admeasuring 38.47 sq. meters. The Small Causes Court while hearing the Appeal, correctly decided that the GRV should be considered at 7% of purchase price and accordingly it was fixed at Rs. 5,782.00 for the year 1996-97. Learned counsel for the appellant has not been able to point out any grounds to assail this order except by saying that no witness was examined by the assessee and that no opportunity was given to the Municipal Corporation to make a proper application before the Small Causes Court u/s 409 of the Bombay Provincial Municipal Corporation Act for appointment of an expert. It was always open for the Municipal Corporation to move a

proper application u/s 409 during the pendency of the Appeal before the Small Causes Court but the Corporation failed to avail such an opportunity while the Appeal was pending before the Small Causes Court and the documents which were produced by the assessee were taken into evidence without any objections by the Municipal Corporation.

4. We find no ground to interfere with the order as was passed by the Small Causes Court in the Municipal Valuation Appeal. This Appeal has no substance, the same is hereby dismissed with no order as to costs.

5. Mr. Shelat has given out that while condoning the delay in this Appeal, the orders were passed for payment of costs. It is therefore ordered that in case any amount of cost is due, it will be open for the

Municipal Corporation either to pay up in cash or to adjust it in the future assessment against the dues of the tax.

(M.R. Calla, J.)

(J.R. Vora, J.)

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